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In re Application of :
WERNER *et al* :
U.S. Application No.: 10/585,215 :
PCT No.: PCT/DE2005/000372 :
Int. Filing Date: 03 March 2005 :
Priority Date: 03 March 2004 :
Docket No.: 17346-0088 :
For: USE OF A METAL COMPLEX AS AN :
N-DOPANT FOR AN ORGANIC :
SEMICONDUCTING MATRIX :
MATERIAL, ORGANIC OF :
SEMICONDUCTING MATERIAL AND :
ELECTRONIC COMPONENT, AND :
ALSO A DOPANT AND LIGAND AND :
PROCESS FOR PRODUCING SAME :

MAILED

AUG 09 2011

PCT LEGAL ADMINISTRATION

DECISION

This decision is in response to applicants' second renewed petition under 37 CFR 1.47(a) filed 16 June 2011.

BACKGROUND

On 16 December 2010, a decision dismissing applicants' renewed petition under 37 CFR 1.47(a) was mailed. Applicants were given two months to respond with extensions of time available.

On 16 June 2011, applicants filed the subject response which was accompanied by, *inter alia*, a four-month extension and \$1,730.00 extension fee, and documentary evidence in support of the petition (Exhibits 1 - 10).

DISCUSSION

Applicants claim that the conduct of Olaf KÜHL by avoiding or refusing all attempts to contact him regarding the subject application constitutes a refusal to cooperate.

A petition under 37 CFR 1.47(a) requires: (1) the petition fee; (2) factual proof that the missing joint inventor cannot be located or refuses to cooperate; (3) a statement of the last known address of the nonsigning joint inventor; (4) and an oath or declaration executed by the signing joint inventors on their behalf and on behalf of the

nonsigning joint inventor.

Items (1) and (3) of 37 CFR 1.47(a) were previously satisfied.

Regarding item (2) of 37 CFR 1.47(a), applicants provided new evidence in the form of an affidavit of Manuela Krumbiegel (Exh. 5) listing the efforts used to contact the nonsigning inventor. These efforts included sending a complete copy of the subject application and declaration to a new work and personal address for Mr. KÜHL, which was found after searching the internet.

Ms. Krumbiegel also states that she talked to the wife of Mr. KÜHL on 24 April 2011 and confirmed his private address information. The documents mailed to his private address on 24 April 2011 were refused delivery by Mr. KÜHL. Ms. Krumbiegel later sent a complete copy of all the documents to two different email addresses found for Mr. KÜHL using the internet on 02 May 2011. No response to any of these efforts has been received. Sufficient documentary evidence was provided in the petition.

The failure of Mr. KÜHL to accept the documents mailed 24 April 2011 constitutes a refusal to cooperate as contemplated by section 409.03(d) of the MPEP.

Item (2) of 37 CFR 1.47(a) is now satisfied.

Regarding item (3), applicants state that they have located an updated work and residence address for Mr. KÜHL. (Exh. 1 - 2). The residence address will be used as the last known address for the nonsigning inventor required by MPEP § 409.03(e).

With regards to item (4) of 37 CFR 1.47(a), the initial declaration filed 24 February 2009 signed by seven inventors on behalf of the nonsigning inventor was not accepted as the address of Kentaro HARADA contained noninitialed changes. See MPEP § 605.04(a). A second declaration executed by Mr. HARADA was submitted on 01 November 2011. However, this declaration was not accepted as it listed only Mr. HARADA as an inventor in the subject application. In the subject response, applicants claim that Mr. HARADA was aware of the application's inventorship since he already signed the original declaration listing all eight inventors. Thus, the second declaration listing only Mr. HARADA as an inventor was proper.

This argument has been considered and rejected.

Each declaration stands on its own. The proper inventive entity must be recorded on each declaration for it to be accepted. See 37 CFR 1.497(a)(3).

Nonetheless, the original declaration containing the noninitialed change in the address of Mr. HARADA is now accepted.¹ This declaration is considered sufficient for the purposes of entry into the U.S. national phase despite the noninitialed alterations as

¹ This acceptance is due to a change in Office policy dated 05 May 2011.

all other requirements of 37 CFR 1.497(a) and (b) are satisfied. Applicants should note that acceptance of a declaration containing a noninitialed alteration for purposes of national stage entry does not prohibit the examiner from later requiring a new oath or declaration to cure the defect.

For this reason, item (4) of 37 CFR 1.47(a) is also complete.

Accordingly, all the requirements of 37 CFR 1.47(a) are now complete.

CONCLUSION

Applicants' second renewed petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 March 2005 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 24 February 2009.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the nonsigning inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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PCT LEGAL ADMINISTRATION

Dear Mr. Kühl:

You are named as an inventor in the above-captioned United States national stage application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. The counsel for the applicant is listed below. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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